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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/910,281	07/19/2001	Peter Robert Foley	CM2492	2076

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THE PROCTER & GAMBLE COMPANY
INTELLECTUAL PROPERTY DIVISION
WINTON HILL TECHNICAL CENTER - BOX 161
6110 CENTER HILL AVENUE
CINCINNATI, OH 45224

EXAMINER	
DELCOTTO, GREGORY R	
ART UNIT	PAPER NUMBER
1751	

DATE MAILED: 04/19/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.	Applicant(s)	
	09/910,281	FOLEY ET AL.	
	Examiner	Art Unit	
	Gregory R. Del Cotto	1751	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on *30 January 2006*.

2a)☒ This action is **FINAL**. 2b)☐ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) *51,53,54,56-59,61,62,64-68,72-74,76-82 and 84-91* is/are pending in the application.

4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) *51,53,54,56-59,61,62,64-68,72-74,76-82 and 84-91* is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☐ The drawing(s) filed on _____ is/are: a)☐ accepted or b)☐ objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a)☐ All b)☐ Some * c)☐ None of:

1.☐ Certified copies of the priority documents have been received.

2.☐ Certified copies of the priority documents have been received in Application No. _____.

3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) ☐ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) Paper No(s)/Mail Date _____.
4) ☐ Interview Summary (PTO-413) Paper No(s)/Mail Date. _____.
5) ☐ Notice of Informal Patent Application (PTO-152)
6) ☐ Other: _____.

DETAILED ACTION

1. Claims 51, 53, 54, 56-62, 64-68, 72-74, 76-82, and 84-91 are pending. Claims 52, 55-60, 63, 69-71, 75, and 83 have been canceled. Applicant's arguments and amendments filed 1/30/06 have been entered.

Objections/Rejections Withdrawn

The following objections/rejections set forth in the Office action mailed 8/29/05 have been withdrawn:

The rejection of claims 51-54, 56-68, and 72-91 under 35 U.S.C. 101 as claiming the same invention as that of claims 1-37 of copending Application No. 11/151027 has been withdrawn.

Claim Rejections - 35 USC § 112

The following is a quotation of the second paragraph of 35 U.S.C. 112:

> The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claims 51, 53, 54, 56-62, 64-68, 72-74, 76-82, and 84-91 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

With respect to instant claim 51, the claim recites that the composition comprises from 10% to 40% by weight of an organic solvent system consisting of: 1 to 15% of an amine and 7 to 30% by weight of a combination of water-miscible solvent and limited water-miscible solvent. This limitation is vague and indefinite in that the specific solvent system "consists" of three components; The upper limits of the ranges for each component is at most 45% (15% + 30%) so it is unclear what makes up the other 55%

by weight of the solvent system since the specific solvent system refers to organoamine, a water-miscible organic solvent, and a limited water-miscible organic solvent and recites "consists" of which would indicate that the specific solvent system claimed is limited to 3 components. Clarification is required.

Priority

Acknowledgment is made of applicant's claim for foreign priority based on an application PCT/US00/34906, filed 12/21/00, PCT/US00/19619, filed 7/19/00, and PCT/US00/20255, filed 7/25/00. It is noted, however, that while applicant appears to have filed certified copies of the applications as required by 35 U.S.C. 119(b), these certified copies have not been placed in the file and cannot be found. Thus, priority has not been granted and it is requested that applicant refile certified copies of the above-listed documents. While Applicant has asked for clarification as to what rule the Examiner is relying upon in the request for resubmission of priority documents, the Examiner has no way of obtaining certified copies of the priority documents and the documents must be present in the file for priority to be granted under 35 USC 119.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

> A person shall be entitled to a patent unless –
>
> (a) the invention was known or used by others in this country, or patented or described in a printed publication in this or a foreign country, before the invention thereof by the applicant for a patent.
>
> (b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.
>
> (e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent

> granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.
>
> (e) the invention was described in a patent granted on an application for patent by another filed in the United States before the invention thereof by the applicant for patent, or on an international application by another who has fulfilled the requirements of paragraphs (1), (2), and (4) of section 371(c) of this title before the invention thereof by the applicant for patent.

The changes made to 35 U.S.C. 102(e) by the American Inventors Protection Act of 1999 (AIPA) and the Intellectual Property and High Technology Technical Amendments Act of 2002 do not apply when the reference is a U.S. patent resulting directly or indirectly from an international application filed before November 29, 2000. Therefore, the prior art date of the reference is determined under 35 U.S.C. 102(e) prior to the amendment by the AIPA (pre-AIPA 35 U.S.C. 102(e)).

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

The factual inquiries set forth in *Graham* **v.** *John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.
4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).

Claims 51, 53, 54, 56-59, 61, 62, 64, 68, 72-74, 76-82, 84, 85, and 87 are rejected under 35 U.S.C. 103(a) as being unpatentable over JP 60-141800 in view of WO 99/24539.

'800 teaches a liquid detergent composition which removes firmly stuck stains formed by degrading oils by heat and oxidation on surfaces of kitchen and kitchen ware. The compositions contain 0.1 to 10% by weight of a swelling clay powder such as montomorillonite, hectorite, etc.; 0.1 to 30% by weight of a solvent such as triethylene glycol, monopropylene glycol monomethyl ether, diethylene glycol monobutyl ether, monopropylene glycol monomethyl ether, etc.; from 1 to 20% by weight of surfactant such as an amine oxide; and 0.5 to 30% by weight of an alkaline agent including monoethanolamine, diethanolamine, etc. Additionally, the compositions may contain other ingredients such as abrasives, perfumes, etc. See Abstract. Examples of suitable surfactants include anionic surfactants, nonionic surfactants including long chain tertiary amine oxides (C12-C14), etc. See page 5, lines 1-20.

'800 does not teach the use of bleaching agents or a cleaning composition having the specific physical parameters containing bleaching agents, organoamine, a water-miscible solvent, a limited water-miscible solvent, a surfactant, and the other requisite components of the composition in the specific proportions as recited by the instant claims.

'539 teaches a method of softening soil deposited on a hard surface. The method comprises contacting a hard surface having soil with a composition having a soil softening additive incorporated into the composition. The compositions may be formulated at either high or low pH and preferred soil softening additives are amylase enzymes. See Abstract. The hard surface may be plates, glasses, cutlery, pots, pans and other surfaces such as kitchen countertops, sinks. Metal surfaces, tiles, bathtubs, floors, etc. See page 3, lines 1-10. The compositions may include one or more buffering agents such as monoethanolamine, diethanolamine, triethanolamine, etc., and the buffering agent may be present from 0.1 to 15% by weight of the composition. See page 14, ine 15 to page 15, line 25. Solvents may also be used in the compositions and include ethanol, propanol, benzyl alcohol, propylene glycol butyl ether, diethylene glycol monobutyl ether, etc. See page 18, line 5 to page 22, line 30.

The compositions may also contain a bleaching component such as a peroxygen bleach including percarbonate, perborate, preformed percarboxylic acids, etc. Additionally, the compositions may include a bleach activator such as tetraacetyl ethylene diamine, n-nonanyloxybenzenesulphonate, etc. See page 43, lines 5-30. Also, the compositions may contain bleach catalysts such as transition metal bleach

catalysts, etc. The compositions may comprise up to 30% by weight of a bleach and up to 30% by weight of a bleach activator. See page 45, lines 1-15. Also, the compositions may comprise calcium and/or magnesium ions which improves the cleaning of greasy soils for various compositions. See page 46, lines 15-30. Furthermore, a wide variety of other ingredients may be used in the composition including dyes, pigments, perfumes, etc. See page 47, lines 1-15.

It would have been obvious to one of ordinary skill in the art, at the time the invention was made, to use a bleaching agent and bleach activator in the composition taught by '800, with a reasonable expectation of success, because '539 teaches the use of a peroxygen bleach and bleach activator in a similar hard surface cleaning composition and further, '800 teaches the use of various optional hard surface ingredients.

Note that, with respect to the pH and the other physical parameters of the composition as recited by the instant claims, the Examiner asserts that the broad teachings of '800 in combination with '539 would encompass compositions having the same physical parameters of the composition as recited by the instant claims because '800 teaches compositions containing the same components in the same proportions as recited by the instant claims.

It would have been obvious to one of ordinary skill in the art, at the time the invention was made, to formulate a cleaning composition having the specific physical parameters containing an organoamine, bleaching agents, a water-miscible solvent, a limited water-miscible solvent, a surfactant, and the other requisite components of the

composition in the specific proportions as recited by the instant claims, with a reasonable expectation of success and similar results with respect to other disclosed components, because the broad teachings of '800 in combination with '539 suggests a cleaning composition having the specific physical parameters containing an organoamine, bleaching agents, a water-miscible solvent, a limited water-miscible solvent, a surfactant, and the other requisite components of the composition in the specific proportions as recited by the instant claims.

Claims 51, 53, 54, 56-59, 61, 62, 64, 68, 72-74, 76-79, 81, 82, 84, 85, and 87 are rejected under 35 U.S.C. 103(a) as being unpatentable over JP 2000-044990 in view of JP 141,800 and WO99/24539.

'990 teaches a liquid detergent composition for hard surfaces containing 0.01 to 20% by weight of a surfactant, 0.01 to 20% by weight of a solvent, and 3 to 20% by weight of an amine compound. Preferred surfactants include anionic, nonionic, and amphoteric surfactants. Preferred solvents include monopropylene glycol monobutyl ether, monopropylene glycol monopropyl ether, and monopropylene glycol monoethyl ether. Suitable amine compounds include monoethanolamine, diethanolamine, triethanolamine, etc. The pH of the composition is from 10 to 13. See Abstract. Suitable surfactants include anionic surfactants, nonionic surfactants including higher fatty acid alkanolamides, alkyl or alkenyamine oxide, etc. See page 5, lines 1-30. The pH of the composition is preferably from 10 to 13. See page 9, lines 1-10.

'990 does not teach the use of a water-miscible solvent such as diethylene glycol monobutyl ether, bleaching agents, or a cleaning composition having the specific

physical parameters containing an organoamine, bleaching agents, a water-miscible solvent, a limited water-miscible solvent, a surfactant, and the other requisite components of the composition in the specific proportions as recited by the instant claims.

'800 and '539 are relied upon as set forth above.

It would have been obvious to one of ordinary skill in the art, at the time the invention was made, to use a solvent such as diethylene glycol monobutyl ether in the composition taught by '990, with a reasonable expectation of success, because '800 teaches the equivalence of diethylene glycol monobutyl ether to monopropylene glycol monomethyl ether in a similar cleaning composition and further, '990 teaches the use of monopropylene glycol monoethyl ether.

It would have been obvious to one of ordinary skill in the art, at the time the invention was made, to use a bleaching agent and bleach activator in the composition taught by '990, with a reasonable expectation of success, because '539 teaches the use of a peroxygen bleach and bleach activator in a similar hard surface cleaning composition and further, '990 teaches the use of various optional hard surface ingredients.

Note that, with respect to the specific physical parameters of the composition as recited by the instant claims, the Examiner asserts that the broad teachings of '990 in combination with '800 and '539 would encompass compositions having the same physical parameters of the composition as recited by the instant claims because '990

teaches compositions containing the same components in the same proportions as recited by the instant claims.

It would have been obvious to one of ordinary skill in the art, at the time the invention was made, to formulate a cleaning composition having the specific physical parameters containing an organoamine, bleaching agents, a water-miscible solvent, a limited water-miscible solvent, a surfactant, and the other requisite components of the composition in the specific proportions as recited by the instant claims, with a reasonable expectation of success and similar results with respect to other disclosed components, because the broad teachings of '990 in combination with '800 and '539 suggest a cleaning composition having the specific physical parameters containing an organoamine, bleaching agents, a water-miscible solvent, a limited water-miscible solvent, a surfactant, and the other requisite components of the composition in the specific proportions as recited by the instant claims.

Claim 86 is rejected under 35 U.S.C. 103(a) as being unpatentable over JP 141800 in view of WO 99/24539 or JP 2000-044990 in view of JP 141800 and WO 99/24539 as applied to the rejected claims above, and further in view of Ofosu-Asante (US 5,739,092).

'800 or '990 are relied upon as set forth above. However, '800 or '990 do not teach the use of a divalent cation in addition to the other requisite components of the composition as recited by instant claim 86.

Ofosu-Asante teaches liquid or gel dishwashing detergent compositions containing alkyl ethoxy carboxylate surfactant, calcium or magnesium ions, etc. See

Abstract. The presence of calcium or magnesium ions improves the cleaning of greasy soils for compositions, manifest mildness to the skin, and provide good storage stability. See column 6, lines 40-55.

It would have been obvious to one of ordinary skill in the art, at the time the invention was made, to use a magnesium or calcium ion(s) in the cleaning compositions taught by '800 or '990 in combination with '800, with a reasonable expectation of success, because Ofosu-Asante teaches the advantageous properties imparted to a similar hard surface cleaner when using magnesium and/or calcium ions.

Claims 51, 53, 54, 56-59, 61, 62, 64-68, 72-74, 76-79, 81, 82, and 84-87 are rejected under 35 U.S.C. 103(a) as being unpatentable over WO 99/24539.

'539 does not teach a cleaning composition having the specific physical parameters containing an organoamine, bleaching agents, a water-miscible solvent, a limited water-miscible solvent, a surfactant, divalent ions, and the other requisite components of the composition in the specific proportions as recited by the instant claims.

Note that, with respect to the specific physical parameters of the composition as recited by the instant claims, the Examiner asserts that the broad teachings of '539 would encompass compositions having the same physical parameters of the composition as recited by the instant claims because "539 teaches compositions containing the same components in the same proportions as recited by the instant claims.

It would have been obvious to one of ordinary skill in the art, at the time the invention was made, to formulate a cleaning composition having the specific physical parameters containing an organoamine, bleaching agents, a water-miscible solvent, a limited water-miscible solvent, a surfactant, divalent ions, and the other requisite components of the composition in the specific proportions as recited by the instant claims, with a reasonable expectation of success and similar results with respect to other disclosed components, because the broad teachings of '539 suggest a cleaning composition having the specific physical parameters containing an organoamine, bleaching agents, a water-miscible solvent, a limited water-miscible solvent, a surfactant, divalent ions, and the other requisite components of the composition in the specific proportions as recited by the instant claims.

Claims 88-91 are rejected under 35 U.S.C. 103(a) as being unpatentable over JP 141800 in view of WO 99/24539, JP 2000-044990 in view of JP 141800 and WO 99/24539, or WO 99/14539 as applied to the rejected claims above, and further in view of Trinh et al (US 6,001,789).

'800, '990, and '539 are relied upon as set forth above. However, '800, '990, or '539 do not specifically teach the use of ionone perfumes, musk, or cyclodextrin in addition to the other requisite components of the composition as recited by the instant claims.

Trinh et al teach a cleaning composition in which a perfumes including ionones and musks are absorbed into a cyclodextrin carrier material to form complexes. See abstract and col. 7, line 35 to col. 12, line 55.

It would have been obvious to one of ordinary skill in the art, at the time the invention was made, to use a perfume-cyclodextrin complex in the cleaning composition taught by '800, '990, or '539, with a reasonable expectation of success, because Trinh et al teach the use of a perfume-cyclodextrin complex a similar cleaning composition and further, '800, '990, or '539 teach the use of perfumes in general.

Response to Arguments

With respect to the rejection under 35 USC 112, second paragraph, Applicant states that Applicant's have amended claim 51 to clarify the desired components of the solvent system and their respective weight percentages. In response, note that, the Examiner maintains, as set forth above, the claim recites that the composition comprises from 10% to 40% by weight of an organic solvent system **consisting** of: 1 to 15% of an amine and 7 to 30% by weight of a combination of water-miscible solvent and limited water-miscible solvent. This limitation is vague and indefinite in that the specific solvent system "consists" of three components; The upper limits of the ranges for each component is at most 45% (15% + 30%) so it is unclear what makes up the other 55% by weight of the solvent system since the specific solvent system refers to organoamine, a water-miscible organic solvent, and a limited water-miscible organic solvent and recites "consists" of which would indicate that the specific solvent system claimed is limited to 3 components.

Furthermore, with respect to JP 60-141800 or JP 2000-044990, Applicant states that neither reference teaches the use of a bleaching system as now recited by the instant claims. In response, note that, the Examiner maintains that one of ordinary skill

in the art would have been motivated to use a bleaching system in the compositions taught by '800 or '990, with a reasonable expectation of success, because '539 teaches the use of a peroxygen bleach and bleach activator in a similar hard surface cleaning composition and further, '800 or '990 teaches the use of various optional hard surface ingredients.

Conclusion

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Gregory R. Del Cotto whose telephone number is (571) 272-1312. The examiner can normally be reached on Mon. thru Fri. from 8:30 AM to 6:00 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Douglas McGinty can be reached on (571) 272-1029. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Gregory R. Del Cotto
Primary Examiner
Art Unit 1751

GRD
April 12, 2006